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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,893	01/26/2004	Tsutomu Okada	17375	9692

23389 7590 09/13/2005

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EXAMINER

FLANAGAN, BEVERLY MEINDL

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/764,893

Applicant(s)

OKADA, TSUTOMU

Examiner

Beverly M. Flanagan

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

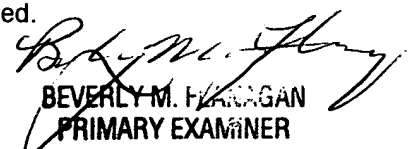
**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
BEVERLY M. FLANAGAN  
PRIMARY EXAMINER

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/26/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

The information disclosure statement filed January 26, 2004 has been entered and the references cited therein have been considered by the examiner.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakada et al. (U.S. Patent 6,689,051).

In regard to claims 1, 2 and 7-9, Nakada et al. teach a hood 1 for an endoscope comprised of a transparent cap part 2 having a mounting part 5 and an endoscope stop 6 for attaching to an endoscope's distal end (see Figures 1 and 2). A flexible tube 9 extends along the insertion section of the endoscope and a treatment instrument, such as a high frequency snare 16 is extended within the tube 9 (see Figure 4). Nakada et al. do not specifically teach the use of a second instrument inserted after the snare 16 is

removed. However, the device disclosed by Nakada et al. does teach the use of other treating instrument, such as an injection needle or a high frequency knife (see col. 6, lines 38-42). Accordingly, since Nakada et al. recognize the use of different instruments, it would have been obvious for one of ordinary skill in the art at the time the invention was made to remove the snare 16 from the tube 9 and insert another instrument, for further resection of tissue. See also col. 6 for a description of the use of the device.

Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakada et al. (U.S. Patent 6,689,051) in view of Sekine et al. (U.S. Patent No. 6,527,753).

**In regard to claims 3-6,** Nakada et al. are silent as to multiple tubes 9 on the device. However, Sekine et al. disclose an endoscopic guide tube 38 having channels 37 and 39 for guiding instruments (see Figure 12). Sekine et al. thus demonstrate that multiple tubes for guiding instruments in an endoscope are well known in the art. Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the device of Nakada et al. with multiple tubes 9, in the manner disclosed by Sekine et al., for the purpose of passing multiple instruments.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should note the following prior art references disclosing


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tubes with multiple passageways for passing instruments: Ishikawa et al., U.S. Patent No. 6,071,233; Matsui et al., U.S. Patent No. 6,352,503 and Michlitsch et al., U.S. Patent Application Publication No. 2004/0225183.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beverly M. Flanagan whose telephone number is (571) 272-4766. The examiner can normally be reached on Mondays, Tuesdays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Beverly M. Flanagan  
Primary Examiner  
Art Unit 3739

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